

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PHAN HUE : CIVIL ACTION

V. : NO.: 1:01-CV-1064

JAMES UPDIKE, P.A., JOSEPH :  
MATALONI, EDWARD O'BRIAN : (Judge Kane)  
and DALE HAZLAK : Magistrate Judge Smyser)

FILED  
HARRISBURG, PA

APR 10 2002

MARY E. DIANDREA CLERK  
Per MS Deputy Clerk

EXHIBITS OF JAMES UPDYKE, P.A. IN SUPPORT OF HIS ANSWER  
AND BRIEF IN OPPOSITION TO PHAN HUE'S MOTION FOR  
A MEDICAL EVALUATION

01/28/02 MON 11:34 FAX 615 376 1352

ASG/PHS LEGAL DEPT

011

## FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

COPY

DY-0577

(Inmate Number)

Phan Hue

(Name of Plaintiff)

660 state Route 11

(Address of Plaintiff)

Hunlock Creek, Pa. 16821

vs.

James Updike; Josephmatoloni; Edward O'Brian; Dale Hazlek

(Names of Defendants)

in their individual &amp; official capacities.

TO BE FILED UNDER: ☒ 42 U.S.C. § 1983 - STATE OFFICIALS☐ 28 U.S.C. § 1331 - FEDERAL OFFICIALSCOMPLAINT FILED  
SCRANTON

JUN 15 2001

PER [Signature]  
DEPUTY CLERK

## I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

N.A.

## II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?

☒ Yes ☐ No

- B. Have you filed a grievance concerning the facts relating to this complaint?

☒ Yes ☐ No

If your answer is no, explain why not

N.A.

- C. Is the grievance process completed?
- ☒
- Yes
- ☐
- No

EXHIBIT "A"

## III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant James Updike is employed  
as Physician's Asst. at S.C.I. Retreat;

B. Additional defendants Joseph Martaloni is the Chief  
Health Care Administrator at S.C.I.  
Retreat; Edward O'Brian is the Culinary  
manager at S.C.I. Retreat; Dale  
[Cont.]

## IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. On Feb. 24th, 2000, while working in the  
Kitchen area, I had an accident  
which seriously injured my shoulder  
& knocked out teeth;
2. I was taken to the outside Hospital  
where the Emergency room Physician  
informed me that I would need to  
see a Bone Specialist & prescribed  
medication;
3. Subsequent to my return to the  
institution, defendant Updike dis-  
continued my medication; Confisca-  
ted my shoulder restraint & refused  
[Cont.]

III: B: Additional defendants Cont.:

Hazlak is unit manager at  
S.C.I. Retreat.

IV. (3) statement of claim Cont.:

to schedule me to see the  
Bone Specialist;  
defendant matolani was ap-  
prised of my inability to use my  
arm or move my shoulder & he ac-  
quiesced to the continuation of  
denying me the prescribed medication  
the continued denial of my shoulder/  
Arm restraint - harness, the contin-  
ued refusal to honor the outside  
doctor's referral to a Bone Specialist  
& when defendant O'Brien & defen-  
dant Hazlak were adamant about not  
letting me off of work, Concurred

IV. (3) statement of claim Cont.:

with their forcing me to work because they feared I was going to sue over the conditions of the work place hence the subsequent injury.

defendant O'Brien would not recognize my injury thus my inability to work & used all his official pressure to see (1) that my injury was not recognized, (2) that I be made to work.

defendant Thakur retaliated against me by seeing that I was punished for refusal to work based upon my contentions of the 8th Cruel & Unusual Punishment violations of my attempts to get the prescribed medical attention.

## V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite cases or statutes.)

1. repair of my medical maladies resultant from the work accident, expungement of the misconduct from my record simply for fighting for my Constitutional Rights.
2. monetary Compensation awarded by a jury commensurate with the physical & psychological pain/doures suffered to date.
3. Punitive damages in the amount of \$10,100.00 from each defendant so that they do not put another individual through the same trauma.

Signed this 12 day of June, 2001.

(Signature of Plaintiff) 

I declare under penalty of perjury that the foregoing is true and correct.

(Date) 6-12-2001

(Signature of Plaintiff) 